

REMARKS

Early and favorable reconsideration of this application is respectfully requested in view of the following remarks.

Claims 1-25 are pending in the present application; all have been rejected. (The Office Action Summary and some of the text of the Office Action refers to claims 1-26: it is respectfully submitted this is a typographical error, as only 25 claims were filed in the application.) Typographical errors have been corrected in claims 4, 24 and 25.

The Examiner has rejected claims 1-25 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter regarded as the invention. Specifically, the Examiner has objected to the characterization that the substrate is between the reactive layer and the laser incident surface, because the substrate purportedly is the substrate in some embodiments. This rejection is respectfully traversed. Clearly, even if the second substrate of applicants' claims is the outer-most layer of a disc, the substrate is thus going to be between the reactive layer and the laser incident surface of said disc, i.e., the surface that a laser will strike. In fact, U.S. Patent No. 6,866,909, cited by the Examiner as described in greater detail below, has a similar limitation in its independent claim 1. Thus, it is respectfully submitted such a limitation is, in fact, sufficiently definite and adequately points out and distinctly claims the subject matter regarded as the invention.

With respect to claim 4 and the Examiner's assertion that R² is undefined, applicants have amended claim 4 for clarification. This amendment is supported in the specification at page 7; thus, no new matter has been added by this amendment.

The Examiner rejected all of the claims as obvious under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 6,866,909 to Wisnudel et al. (hereinafter "Wisnudel"). This rejection is respectfully traversed. While Wisnudel discloses various materials which may be utilized to form its substrates, nowhere does Wisnudel disclose or suggest a second substrate including a polymethacrylate copolymer, or a blend comprising a polymethacrylate homopolymer or copolymer as recited in claim 1. Moreover, nowhere does Wisnudel disclose a second substrate formed of an olefin polymer selected from the group consisting of methyl methacrylate-styrene-acrylonitrile terpolymers and methyl methacrylate-styrene-ethyl acrylate terpolymers, as recited in claims 24 and 25.

Without such disclosure, Wisnudel does not render obvious the instant claims. Without any support, the Examiner asserts that it would have been obvious to combine polymethylmethacrylates with other suitable substrate materials as copolymers or blends. The Examiner also states applicants' data showing that PMMA cannot meet the Barrers limitation recited in the claims is unpersuasive, as the addition of an additive or blending could be used to adjust the Barrers limitation and in some instances it may be desirable to have the disc be unreadable. These assertions, however, ignore the limitations of the claimed subject matter as well as the data which, the Examiner's assertions notwithstanding, demonstrate the desirability

of the claimed copolymers and blends to obtain the recited Barrers limitations, something neither suggested or disclosed in Wisnudel. Thus, it is respectfully submitted the pending claims are non-obvious over Wisnudel and withdrawal of this rejection is respectfully requested.

The Examiner has next rejected all of the pending claims under 35 U.S.C. §103(a) as obvious over U.S. Patent Application Publication No. 2003/0207206 to Olson et al. (“Olson ‘206”) in view of Wisnudel and/or JP01290137 to Abe et al. (“Abe”). The Examiner asserts that Olson ‘206 discloses, in Example 6, a metallized polycarbonate substrate coated with a PMMA/leuco methylene blue solution, followed by the application of an unmetallized polycarbonate substrate via an adhesive layer. The Examiner asserts the use of additives in the second substrate is disclosed at paragraph 38 of Olson ‘206. However, paragraph 38 of Olson ‘206 refers to additives to polycarbonate compositions, not a second substrate including a polymethacrylate copolymer, or a blend comprising a polymethacrylate homopolymer or copolymer as recited in claim 1. Nor does Olson ‘206 disclose a second substrate formed of an olefin polymer selected from the group consisting of methyl methacrylate-styrene-acrylonitrile terpolymers and methyl methacrylate-styrene-ethyl acrylate terpolymers, as recited in claims 24 and 25.

As noted above, Wisnudel fails to render claims 1-25 obvious. Nowhere does Wisnudel disclose or suggest a second substrate including a polymethacrylate copolymer, or a blend comprising a polymethacrylate homopolymer or copolymer as recited in claim 1. Moreover, nowhere does Wisnudel disclose a second substrate formed of an olefin polymer selected from

the group consisting of methyl methacrylate-styrene-acrylonitrile terpolymers and methyl methacrylate-styrene-ethyl acrylate terpolymers, as recited in claims 24 and 25. Finally, the Examiner's assertions notwithstanding, the claimed subject matter as well as the data of the present application demonstrate the desirability of the claimed copolymers and blends to obtain the recited Barrers limitations, something neither suggested or disclosed in Wisnudel. Thus, Wisnudel fails to remedy the deficiencies of Olson '206.

Abe fails to remedy the deficiencies of Olson '206. According to the Examiner, Abe discloses an optical disc substrate which is a copolymer of methyl methacrylate and styrene. However, nowhere does Abe disclose or suggest a disc having a first substrate and second substrate as recited in claims 1, 24 and 25, nor does Abe disclose or suggest a second substrate formed of blends of a polymethacrylate homopolymer or copolymer as recited in claim 1, nor does Abe disclose or suggest a second substrate formed of an olefin polymer selected from the group consisting of methyl methacrylate-styrene-acrylonitrile terpolymers and methyl methacrylate-styrene-ethyl acrylate terpolymers, as recited in claims 24 and 25.

Thus, for at least the foregoing reasons, withdrawal of the rejection of claims 1-25 as obvious over Olson '206 in view of Wisnudel and/or Abe is respectfully requested.

The Examiner has next rejected all of the pending claims under 35 U.S.C. §103(a) as obvious over U.S. Patent Application Publication No. 2003/0198892 to Ezbiansky et al. ("Ezbiansky") in view of Wisnudel and/or Abe. The Examiner asserts that Ezbiansky discloses, in Example 5, a metallized polycarbonate substrate coated with a PMMA/leuco methylene blue

solution followed by the application of an unmetallized polycarbonate substrate via an adhesive layer. The Examiner asserts the use of additives in the second substrate is disclosed at paragraph 45 of Ezbiansky. However, paragraph 45 of Ezbiansky refers to additives to polycarbonate compositions, not a second substrate including a polymethacrylate copolymer, or a blend comprising a polymethacrylate homopolymer or copolymer as recited in claim 1. Nor does Ezbiansky disclose a second substrate formed of an olefin polymer selected from the group consisting of methyl methacrylate-styrene-acrylonitrile terpolymers and methyl methacrylate-styrene-ethyl acrylate terpolymers, as recited in claims 24 and 25.

As noted above, Wisnudel fails to render claims 1-25 obvious. Nowhere does Wisnudel disclose or suggest a second substrate including a polymethacrylate copolymer, or a blend comprising a polymethacrylate homopolymer or copolymer as recited in claim 1. Moreover, nowhere does Wisnudel disclose a second substrate formed of an olefin polymer selected from the group consisting of methyl methacrylate-styrene-acrylonitrile terpolymers and methyl methacrylate-styrene-ethyl acrylate terpolymers, as recited in claims 24 and 25. Finally, the Examiner's assertions notwithstanding, the claimed subject matter as well as the data of the present application demonstrate the desirability of the claimed copolymers and blends to obtain the recited Barrers limitations, something neither suggested or disclosed in Wisnudel. Thus, Wisnudel fails to remedy the deficiencies of Ezbiansky.

Abe fails to remedy the deficiencies of Ezbiansky. According to the Examiner, Abe discloses an optical disc substrate which is a copolymer of methyl methacrylate and styrene. However, nowhere does Abe disclose or suggest a disc having a first substrate and second substrate as recited in claims 1, 24 and 25, nor does Abe disclose or suggest a second substrate formed of blends of a polymethacrylate homopolymer or copolymer as recited in claim 1, nor does Abe disclose or suggest a second substrate formed of an olefin polymer selected from the group consisting of methyl methacrylate-styrene-acrylonitrile terpolymers and methyl methacrylate-styrene-ethyl acrylate terpolymers, as recited in claims 24 and 25.

Thus, for at least the foregoing reasons, withdrawal of the rejection of claims 1-25 as obvious over Ezbiansky in view of Wisnudel and/or Abe is respectfully requested.

The Examiner has rejected the claims on the grounds of nonstatutory obviousness-type double patenting as unpatentable over: (1) U.S. Patent No. 6,866,909; (2) U.S. Patent Application Publication No. 2004/0152013; and (3) U.S. Patent Application Publication No.2003/0207206 in view of Wisnudel and Abe. It is presumed that the last rejection (3) should be over U.S. Patent Publication No.2003/0207206 and the reference to Wisnudel and Abe is in error. Clarification is respectfully requested before any terminal disclaimer is submitted.

Appln. No. 10/657,667
Filing Date: September 8, 2003
Docket: 129547 (1306-43)
Page 14 of 14

Response to Office Action mailed March 22, 2006

It is believed that the claims of the application, i.e., claims 1-25, are patentably distinct over the art of record and are in condition for allowance. In the event that the examiner believes that a telephone conference or a personal interview may facilitate resolution of any remaining matters, the undersigned may be contacted at the number indicated below. In view of the foregoing amendment and remarks, early and favorable action on this application are earnestly solicited.

Respectfully submitted,



Michael R. Brew
Registration No. 43,513
Attorney for Applicants

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road, Suite 225
Melville, New York 11747
Tel.: (631) 501-5700
Fax: (631) 501-3526
MRB/nr